

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

Jerry L. Alston,	:	
	:	C.A. No. 06-02-0108AP
Plaintiff below/	:	
Appellant,	:	
	:	
v.	:	
	:	
Trinette R. Scott,	:	
	:	
Defendant below/	:	
Appellee.	:	

Submitted: May 15, 2006

Decided: May 19, 2006

Decision on Appellant's Motion for Reargument.

Appellant's Motion is denied.

Jerry L. Alston, 406 Arnold Court, Generals Green, Dover, Delaware 19901, Pro Se Appellant.

Trinette Scott, 107 Lawn Drive, Apt. 3C, Smyrna, Delaware 19977, Pro se Appellee.

Trader, J.

In this civil appeal from the Justice of the Peace Court the appellant has filed a motion for reargument of the Court's decision dismissing the appeal for lack of subject matter jurisdiction.

The appellant requests reargument on the following grounds: (1) the appeal was filed in good faith; (2) the appeal should be permitted under Superior Court Civil Rule 60(b); (3) a final judgment was not entered in the court below until February 15, 2006; (4) the appellant relied on written procedural instructions from the Justice of the Peace Court; and (5) the racial bias of the judge deciding this appeal. For the reasons set forth below, the motion for reargument is denied.

The appellant first contends that the appeal was filed in good faith and a less stringent standard should be applied to a *pro se* appellant. The appellant's contention is incorrect. The good faith belief of the appellant is absolutely irrelevant to the question of the Court's jurisdiction. 10 Del. C. Sec. 9571 applies equally to appellants represented by counsel and *pro se* appellants. The appeal must be perfected within fifteen days of the final judgment in the court below or this Court has no appellant jurisdiction.

The appellant contends that his appeal should be addressed under Superior Court Rule 60(b). I disagree. Superior Court Rule 60(b) and the similar Rule 60(b) of the Court of Common Pleas are applicable to a motion for relief from a final judgment. It is not applicable to the timely taking of an appeal under Section 9571.

The appellant contends that his appeal is taken from the lower court's denial of a motion to set aside judgment. I disagree. The transcript of the judgment furnished to this Court by the appellant indicates that judgment was entered in behalf of the appellant and against the appellee on January 20, 2006 for the sum of \$400.00 and court costs.

Therefore, the appeal must be taken within fifteen days from January 20, 2006. Since appellant's post-trial motion was untimely, it did not extend the time for filing an appeal and the appeal filed on February 27, 2006 was untimely.

The appellant next contends that he relied on written procedural instructions from the Justice of the Peace Court in taking his appeal. Although the appellant may have received written instructions concerning an appeal from the Justice of the Peace Court on February 15, 2006, the time for taking an appeal had already elapsed. Therefore, these instructions have no bearing on the failure of the appellant to perfect his appeal in the time required by law.

Finally, the appellant contends that the decision of the Court is motivated by racial bias. The appellant's contention is incorrect. This Court has no knowledge of the race of either of the parties before this Court. Therefore, this contention is clearly without merit and is summarily rejected.

Based on the above conclusions of law, the motion for reargument is denied.

IT IS SO ORDERED.

Merrill C. Trader
Judge